THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date:9-3-2006

WRIT PETITION No.4564 OF 2006

BETWEEN:

Champath Lal Jain and others.

…Petitioners.

And

The Government of Andhra Pradesh, rep. by its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad.

…Respondents

ORDER:

The petitioners seek to issue a writ of mandamus, directing the 1st respondent to give an opportunity to the petitioners herein who are the owners of the buildings situated in M.G.Road (Bandar Road), Vijayawada, Krishna District to explain their cases in the matter of widening the road.

Heard the learned counsel appearing for the petitioners as well as the learned standing counsel appearing for the respondents.

The petitioners who are the owners of the buildings in Vijayawada Municipal Corporation questions the memorandum of the

Government dated 27-2-2006 in issuing show cause notice calling upon the Mayor, Vijayawada Municipal Corporation to submit his explanation within 15 days as to why the Council Resolution dated 31-1-2006 should not be cancelled if suitable explanation is not submitted.

It is the case of the petitioners that the Government of Andhra Pradesh passed orders in G.O.Ms.No.193, M.A., dated 1-5-2002 for widening and improvement of Mahatma Gandhi Road (Bandar Road), Vijayawada, Krishna District from 40' to 60' into 100' to 120'. It is stated that as against the said Government Order, the Municipal Council has passed a resolution restricting the road width to 80' only instead of 100'.

The perusal of the impugned memorandum of the Government dated 27-2-2006 goes to show that the Municipal Council has passed a resolution to uniformly widen the road to 80' as against the Master Plan road width of 120'. The Government considered the said resolution and stated that the Roads and Building (R&B) Department has already sanctioned the full amount of Rs.7.5 Crores for widening of M.G.Road to 100' and the A.P.TRANSCO has sanctioned Rs.2 Crore for shifting of the poles. If the opportunity is not utilized and the road is not widened before the end of March, 2006, these funds will be lapsed. The Vijayawada Municipal Corporation alone is not in a position to incur the full expenditure for widening of the road. The vehicular traffic in M.G. Road is expanding at a rapid pace and 80' width road will not serve any long or even medium term purpose and it will definitely necessitate to another road widening shortly and that it would lead to unnecessary and wasteful expenditure by way of reshifting the drains and telephone poles. Thus, the decision of the Vijayawada Municipal Corporation would be detrimental to the future needs of the public and lead to wasteful expenditure. Accordingly in exercise of the powers conferred under Section 679-A of Hyderabad Municipal Corporations Act, 1955, the Government issued a show cause notice stating that as to why the said resolution shall not be cancelled.

The learned counsel appearing for the petitioners submit that as per the proviso to Section 679(A) of the Municipal Corporations Act, 1955, the Government before cancelling the resolution of the Municipal Council, shall give an opportunity to the authority or the persons concerned.

I am of the opinion that the person concerned here is the Mayor, Municipal Corporation, Vijayawada, but not the individual house owners whose buildings and lands will be effected for the purpose of road widening. If any of the buildings of the petitioners are sought to be acquired for the purpose of widening of the road, then only they are entitled for a notice under Section 147 or 148 of the Hyderabad Municipal Corporations Act, but in respect of the cancellation of the resolution of the Municipal Council, I am of the opinion that the petitioners are not at all the concerned persons or the authority as contemplated under the proviso to Section 679(A) of the Hyderabad Municipal Corporation Act. Even otherwise, as against the individual interest, public interest will prevail. Therefore, the petitioners are not entitled to be heard in a matter of taking decision in cancellation of the resolution of the Municipal Council.

The writ petition is dismissed accordingly. No orders as to costs.

V.ESWARAIAH, J

Date: 9-03-2006.

Shr.